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BEFORE THE
POSTAL RATE COMMISSION
WASHINGTON, D.C. 20268-0001

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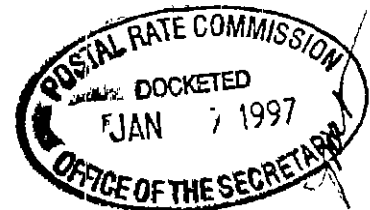
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POSTAL RATE COMMISSION
OFFICE OF THE SECRETARY

Special Services Fees and Classifications)

Docket No. MC96-3

BRIEF OF THE
AMERICAN POSTAL WORKERS UNION, AFL-CIO
TO THE POSTAL RATE COMMISSION



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January 7, 1997

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The American Postal Workers Union, AFL-CIO ("APWU"), hereby submits its brief to the Postal Rate Commission ("PRC") concerning the changes in classifications and postal rates and fees proposed by the United States Postal Service ("USPS" or "Postal Service").

The APWU believes that the PRC should deny the USPS request to eliminate Special Delivery service from the classification schedule and the related fees from the rate tables for two basic reasons:

- (1) The Postal Service's rationale for elimination of Special Delivery does not pass the muster of the provisions, powers, and factors established by the Postal Reorganization Act ("PRA"), and
- (2) The testimony on which the USPS relies to justify the request is either speculative, outdated, or highly subjective.

Additionally, the USPS argument that there are many available alternatives to special delivery service, *i.e.*, expedited delivery service, is wrong. There are alternatives for the expedited transportation or processing of mail, but there are no alternatives for routine expedited delivery service.

I. Postal Reorganization Act: Provisions,
Policies, and Factors.

PRA Section 3623 establishes criteria to be used by the Commission when making a recommended decision to the Governors regarding the classification schedule. Recommended changes should not disrupt the system's fairness and equity, but should be the result of a process that has fairly weighed the desirability and justification of any special services. While the PRA specifically directs that one class of mail "shall provide for the most expeditious handling and transportation afforded mail matter by the Postal Service.", 39 U.S.C. §3623(d), one of the factors the Commission is directed to take into account when making recommendations concerning the mail classification schedule is "the importance of providing classifications with extremely high degrees of reliability and speed of delivery." 39 U.S.C. §3623(c)(3) (emphasis supplied).

Similarly, Section 3622 of the PRA directs that recommended changes to rates and fees must be in the public interest and establishes that one of the factors that must be accorded weight is the value that the special service actually provides to the public to include the priority of delivery. 39 U.S.C. §3622(b)(2).

The USPS has provided testimony and evidence to the Commissioners purporting to show that special delivery service is duplicative, and that if it is eliminated other mail classes or special services will continue to provide the equivalent of special delivery service. This is simply not true. The APWU provides

point by point rebuttal on this critical issue later in this brief when we analyze the individual testimony of the USPS witnesses.

II. The Postal Reorganization Act: The History of Expedited Delivery Service

We believe that it is relevant to briefly review some of the legislative history preceding the passage of the PRA because we believe that it supports maintaining special delivery service as part of the Postal Service's classification schedule. Extensive hearings were held by the Senate Committee on Post Office and Civil Service in regards to reorganization of the Post Office Department. It is interesting to note that just prior to these hearings the Post Office Department had implemented new regulations which reduced the number of Special Delivery trips per day from seven to four. The president of the National Association of Special Delivery Messengers, one of the Unions that merged to form the APWU in 1971, appeared before the Committee to express concern that postal reorganization would lead to further reduction in special delivery service. A number of bills were filed in the House of Representatives that sought to maintain the current level of special delivery service. Within this context Postmaster General Blount appeared before the Committee and testified as follows: "Service is what this total reform legislation is all about. Public service is the postal system's reason for being - at once its heart and its hallmark. . . . A prime objective of the new Postal Service will be to see that today's level of service is not only continued, but, where possible is improved to meet the

nation's growing postal needs." (Hearings on Postal Modernization before the Committee on Post Office and Civil Service, October, November, and December, 1969; p. 236).

III. USPS Market Research and Analysis are
Either Speculative, Outdated or Highly Subjective

The USPS seeks to portray its proposal to eliminate special delivery service as based on some rigorous, "business use" analytical study. The USPS's repeated claims to extensive market knowledge in regards to special delivery service do not stand up to scrutiny. The USPS Library Reference SSR 107, "Special Delivery: Market Analysis and Strategy Recommendation (1975)" is the only document to which the USPS can refer for market analysis. How persuasive can market data be from a report that will be twenty-two years old this April?

The testimony that is offered in support of the USPS claim of thorough market analysis primarily consists of commentary that seeks to establish the "retail soundness" of eliminating special delivery service by comparing it to the virtual elimination of the long playing record in favor of cassettes and CDs by the recording industry. Additionally, the principle witness that the USPS depends upon to argue that special delivery service is no longer a viable product can only provide the Commissioners with the previously mentioned 1975 market analysis, the witnesses's very brief experience as a letter carrier over a decade ago, anecdotal information from postmasters, and the witness's own testimony.

It is interesting to note that this absence of current

objective special delivery market data persists in spite of the PRC's repeated suggestions in both 1987 and 1994 that the USPS perform such an analysis. This USPS failure to conduct a meaningful market analysis has forced it to rely upon theory, not evidence.

IV. An Analysis of Postal Service's Case and Testimony

A. The Request for a Recommended Decision

The Postal Service's request to the Commission states that the goals of the USPS in proposing changes to special services, apparently including the proposal to eliminate special delivery service, is to better meet customer needs and to reflect costs and customer demands. In support of all the proposed changes the USPS purports to use new data and analysis obtained since the last rate case (p. 1). However, the "new" hypothetical cost data that they provide concerning special delivery service simply establishes that elimination of special delivery service would result in a net loss to the USPS (USPS - T1, Exhibit A); and, as we have previously pointed out, there is no new market study or analysis other than Witness Needham's subjective and speculative opinions.

The USPS seeks to convince the Commission that the demand for special delivery service has virtually disappeared. However, the data supplied speaks only to the use of special delivery service. The market demand for types of expedited mail service is reflected by the use of Express Mail (APWU/USPS-T8-35, Transcript at 1052). The use of special delivery service has declined principally

because the USPS has chosen to satisfy this expressed market demand by shifting consumer attention through the use of advertising from special delivery service to express mail service (APWU/USPS-T8-45, Transcript at 244), and by providing an expedited transportation network for Express Mail. If the Express Mail transportation network ceased to exist, then Express Mail could no longer accurately be described as expedited mail because USPS regulations do not permit for routine expedited delivery of Express Mail. Delivery regulations specifically direct that delivery of Express Mail should be effected in the normal course of delivering other mail. These regulations also specifically prohibit the creation of another overlay of delivery service, or the creation of specialized routes for the delivery of Express Mail (DM 201, Chapter 242; attached to response to DBP/USPS-T8-50).

B. Testimony of W. Ashley Lyons

Witness Lyons' testimony provides an overview of all the USPS proposals and identifies three goals of the current filing. The first stated goal is one of attaining a more economically rational basis for superior delivery service. Its "economically rational approach" results in a proposal to eliminate special delivery service and the net income that it is projected to yield.

This witness states that the USPS recognizes its public service obligation, particularly its obligation to assess the availability of alternatives to special delivery service. However, there is no established alternative to special delivery service

within the USPS. The Postal Service would like to convince the PRC that express mail service replaces special delivery service, however, these two expedited services that are based on very different operational concepts. Express Mail provides expedition through a dedicated transportation network. Special Delivery provides expedition through a dedicated delivery network. There is no USPS alternative to the established Special Delivery expedited delivery network that currently services the major markets. The public may have the impression that Express Mail provides for expedited delivery, but regulations and reality demonstrate that this is not the case. The vast majority of Express Mail is delivered by letter carriers on their regular routes along with their regular mail.

The second goal enunciated by this witness involves the review of services to determine if they could be improved and made more useful to the customer. Apparently, the USPS has decided that the way to improve special delivery service is to eliminate it. This recommendation has been made to the Commission despite the fact that the last time the Postal Service performed a formal market analysis or customer survey concerning special delivery service was in 1975, notwithstanding the PRC's previous suggestions in this area (APWU/USPS-T8-17, 22, 23, 24, 28, Transcript at 1034, 1039, 1040, 1041, 1045).

The third major goal elaborated by Witness Lyons was to add revenue. With respect to Special Delivery, however, as we noted earlier, eliminating it would result in losing its projected net

income contribution. The USPS argues that the elimination of special delivery service will increase the demand for other postal services. The Commissioners are apparently being asked to accept this assertion on faith because no evidence in support of this supposition is provided by this or any other witness. We also reiterate that the USPS offers no service comparable to the expedited delivery service provided by special delivery service.

C. Testimony of Carl E. Steidtmann

Witness Steidtmann claims that his testimony in support of the retail soundness of the USPS's proposals is based on modern retailing practices. With regard to special delivery service, Witness Steidtmann believes that sound retailing practice calls for the elimination of special delivery service because it has reached the end of its product life cycle. He draws an analogy between Special Delivery and the virtual elimination of long playing records by the recording industry. The analogy, however, is critically flawed. The record industry's movement from LPs to cassettes and CDs was driven by dramatic changes in available technology. No dramatic shift in fundamental technology caused Express Mail use to eclipse Special Delivery. It was simply the logical result of USPS marketing decisions. The more accurate analogy would be to the modern retail practice of launching an advertising campaign lauding the "new and improved" version of a current product, and then eliminating the old brand because there is no longer any "demand" for it. This type of modern retailing

practice is commonly undertaken regardless of whether the new product is actually better than the product that it pushes out of the market. We all experience this type of "retail soundness" on a regular basis.

In an attempt to establish that there is an enhanced service provided by Express Mail that is directly substitutable for Special Delivery mail Witness Steidtmann perpetuates the inaccurate claim that Express Mail provides expedited delivery service. However, since his autobiographical sketch demonstrates no first hand knowledge of USPS operations, we must discount both his testimony on postal services and his belief that it is factually accurate.

D. Testimony of Susan W. Needham

The USPS has called upon this witness to advance the bulk of the argument in support of its request to eliminate special delivery service. The testimony is insufficient to support the proposal. For example, Witness Needham in a reply to an APWU interrogatory (APWU/USPS-T8-6d, Transcript 1019) remarks that Special Delivery units or Special Delivery Messengers are found in only a minute fraction of the nation's post offices. As a matter of fact there are such units or Messengers in every major market delivery area that is served by the dedicated Express Mail transportation network. These major urban markets may indeed represent a small percentage of all of the many postal installations in the United States, but they account for a significant percentage of mail volume.

In her testimony Witness Needham asserts that there are "many" alternatives to special delivery service, and cites as examples Express Mail, Priority Mail, First-Class Mail, long distance phone calls, faxes, and electronic mail messaging. (USPS-T-8, p. 127, lines 11-13). However, when we asked the witness directly if Express Mail, Priority Mail, and First-Class Mail routinely provide the customer with expedited delivery service, she could not answer in the affirmative (APWU/USPS-T8-11, Transcript at 1027) because special delivery service is the only expedited delivery service available to the USPS customer.

Up to this point we have been concentrating on the expedited delivery that Special Delivery provides during the week when all other types of mail are routinely being delivered. However, because Witness Needham in her testimony claimed that Express Mail is an alternative which provides more expeditious delivery (USPS-T-8, p. 128, lines 1-2), we asked her specifically about another valuable service that Special Delivery provides: delivery on Sundays and holidays (APWU/USPS-T-8-12, Transcript at 1028 and 1029). We asked whether the USPS has performed any surveys in regards to mail being delivered by special delivery service on Sundays and holidays. Witness Needham's response is short and to the point: "No." Again we are presented with an example of the weakness of the USPS's recommendation to eliminate special delivery service. The Postal Service has no idea what volume of mail, including Express Mail, receives special delivery service on Sundays and holidays. There is no other existing delivery service

that offers Sunday and holiday deliveries. Similarly, the USPS has no statistics regarding the reliability and speed of special delivery service (APWU/USPS-T8-14, Transcript 1031).

There are several other ways that the elimination of special delivery service deprives customers of valuable options. For example, since Express Mail cannot be sent certified or registered the only way a customer can receive expedited delivery of this type of mail is to use Special Delivery (APWU/USPS-T8-39, Transcript at 1056). Elimination of special delivery service would also impair the ability of customers to be cost efficient in their use of USPS expedited mail. Witness Needham admits that for any mail piece that weighs over one pound it is always cheaper to send it Special Delivery/Priority Mail than to send it by Express Mail. (APWU/USPS-T8-12(c), Transcript at pages 1028-1029.) It should be noted that Priority Mail is transported on an expedited transportation network between major markets, and if it is sent Special Delivery, it also receives expedited delivery at the destinating city, which Express Mail does not receive.

On these issues we believe that Witness Roger Sherman on behalf of the Office of Consumer Advocate makes some cogent points (OCA-T-100). He observes that if by eliminating fees the USPS eliminates choices, it would normally be said that a service with fewer choices has become less useful rather than more useful. "While eliminating a service may make good profit and loss sense, it can hardly make the service more useful" (OCA-T-100 at p. 4, lines 20-21). We also concur with Witness Sherman when he remarks

(speaking about a USPS recommendation concerning a different service) that simplification is no justification for forcing consumers to buy more expensive service (p. 22, l. 4-7).

Witness Needham also argues that special delivery service has lost its market viability over the years. However, the history of Special Delivery volumes provided by this witness (USPS-T-8, p. 126) shows a rather remarkable 75% increase of volume in Special Delivery Mail from 1990 to 1991 and a more remarkable doubling of volume from 1993 to 1994. The USPS has no information to explain this phenomenon (APWU/USPS-T8-10 d., Transcript at 1025).

V. Response of USPS Witness Needham
to Interrogatories of David B. Popkin

Mr. Popkin pursued some of the same issues that the APWU did concerning the distinctions between Express Mail and special delivery service. Some of Witness Needham's responses to Mr. Popkin's interrogatories continued to demonstrate an incomplete understanding of USPS procedures. For example, Witness Needham was asked whether on any days of the week or on holidays Special Delivery Mail would receive better delivery service than an Express Mail article. Her response was, "I know of no particular instances" (DBP/USPS-T8-11). Obviously, Witness Needham did not recall that special delivery service is available on Sundays and holidays even though she had so testified previously (USPS-T-8, pages 118-119, lines 11-1; page 120, lines 3-8). In addition, USPS regulations provide no Sunday or holiday service for Express Mail. In the course of the series of interrogatories and responses between

Witness Needham and Mr. Popkin on the distinctions between Express Mail and special delivery service, Witness Needham finally admits that there is no expedited delivery of Express Mail, stating correctly that Express Mail features guaranteed delivery, expedited transportation from the originating post office, and insurance (response to DBP/USPS-T8-43).

VI. Conclusion

The expedited mail classification schedule identifies Express Mail as expedited mail providing high speed and high reliability, but speaks only to expedited transportation, not expedited delivery.

The classification schedule for Special Delivery (SS-17) defines special delivery service as a service that provides for preferential handling in dispatch and transportation, and delivery of mail as soon as practicable after arrival at the addressee's post office.

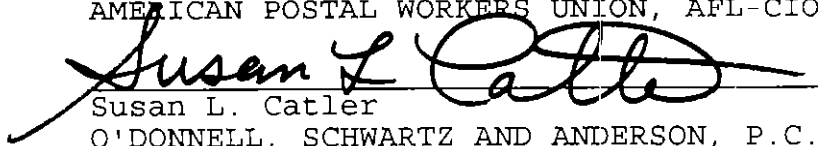
The distinctions between these two products could not be clearer. Elimination of special delivery service would not be fair to the Postal Service customer. It would eliminate a valuable service - the only service that provides expedited delivery. There would no longer be a special service providing the most expeditious handling and an extremely high degree of delivery speed. If special delivery service is eliminated there is no established USPS alternative that would provide expedited delivery.

The USPS has provided an unpersuasive rationale and an

insufficient factual basis to support its request to eliminate special delivery service and rates. We request that the Commissioners deny the USPS's request for a recommended decision to eliminate this valuable service.

Respectfully submitted,


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CERTIFICATE OF SERVICE

I hereby certify that I have this date served the foregoing document in accordance with section 12 of the rules of practice.

Date: January 7, 1997


Susan L. Catler